

SB 6433 - S AMD 81
By Senator Benton

PULLED 02/11/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that recent events,
4 including the 9/11 terrorist acts, the tsunami in southeast Asia,
5 Hurricanes Katrina and Rita in the gulf coast, outbreaks of avian flu,
6 and the earthquake in Pakistan, have demonstrated the need for a
7 coordinated, comprehensive all-hazards disaster plan involving
8 citizens, industry, local governments, and the state. Washington
9 state's topography, geography, location, and strategic and economic
10 interests place the state at particular risk from both natural
11 disasters and man-made disasters. In response, Washington state and
12 its local governments have implemented nationally recognized all-
13 hazards emergency management and disaster response plans. However,
14 recent studies have revealed the lack of a secure funding source for
15 resolving impediments to the ability of state and local programs to
16 integrate and coordinate comprehensive disaster preparedness. In
17 addition, local programs suffer disparities in funding and expertise,
18 leaving troublesome gaps in a well-coordinated statewide all-hazards
19 emergency management system.

20 Recognizing that all disasters are local disasters, the legislature
21 therefore intends to strengthen state and local emergency response,
22 mitigation, preparation, and coordination by establishing a stable
23 source of funding with the intent that Washington state become the
24 nationally recognized leader in emergency management. The funding will
25 be dedicated to the development and coordination of state and local
26 government emergency management programs by supporting joint training
27 exercises, citizen and industry coordination with emergency management
28 efforts, public education, and relationship building among local and
29 state emergency management officials.

1 NEW SECTION. **Sec. 2.** The emergency management, preparedness, and
2 assistance account is created in the state treasury. All receipts from
3 the surcharge authorized by section 3 of this act must be deposited
4 into the account. Moneys in the account may be spent only after
5 appropriation. Expenditures from the account may be used only as
6 provided in section 4 of this act.

7 NEW SECTION. **Sec. 3.** (1) In order to provide funds for emergency
8 management, preparedness, and assistance, an annual surcharge of two
9 dollars per policy shall be imposed on every homeowner's, mobile
10 homeowner's, tenant homeowner's, and condominium unit owner's insurance
11 policy, and an annual surcharge of four dollars per policy shall be
12 imposed on every commercial fire, commercial multiple peril, and
13 business owner's property insurance policy, issued or renewed on or
14 after the effective date of this section.

15 (2) The surcharge shall be paid by the policyholder to the insurer
16 that issued the policy, and each insurer shall collect from each
17 policyholder the full amount of the surcharge payable in respect to
18 each policy and remit the amount to the department of revenue.
19 Beginning with invoices issued on or after the effective date of this
20 section, the surcharge shall be stated separately from the premium in
21 any policy invoice or bill issued by the insurer.

22 (3) The department of revenue will collect, administer, audit, and
23 enforce the surcharge under chapter 82.32 RCW. Each insurer shall
24 retain as compensation three percent of the gross amount collected from
25 policyholders. The surcharge is not to be considered premiums of the
26 insurer and is not subject to premium taxes, however, nonpayment of the
27 surcharge by the insured may be a valid reason for cancellation of the
28 policy. The surcharge imposed on policyholders under this section is
29 not subject to retaliatory tax provisions. All proceeds of the
30 surcharge must be deposited in the emergency management, preparedness,
31 and assistance account and may not be used to supplant existing local
32 funding.

33 NEW SECTION. **Sec. 4.** (1)(a)(i) Until June 30, 2008, the
34 department must use twenty percent of the funds appropriated from the
35 emergency management, preparedness, and assistance account for the
36 purposes of (a)(ii) of this subsection. Beginning with the fiscal year

1 ending June 30, 2009, and biennially thereafter, the department must
2 use ten percent of the funds appropriated from the emergency
3 management, preparedness, and assistance account for the purposes of
4 (a)(ii) of this subsection.

5 (ii) Funds appropriated under this subsection must be used for the
6 department's administration of this section, and to: Fund the
7 assessment required by section 5 of this act; fund state agency
8 activities, including military department activities, that develop and
9 coordinate comprehensive emergency management plans; train elected and
10 appointed state officials on state laws, disaster command and response
11 structures, and the roles and responsibilities of officials before,
12 during, and after a disaster; administer periodic joint emergency
13 management training exercises involving the military department and
14 other state agencies; and implement state agency projects that will
15 strengthen emergency response, mitigation, preparation, and
16 coordination.

17 (b)(i) Until June 30, 2008, the department must allocate eighty
18 percent of the funds appropriated from the emergency management,
19 preparedness, and assistance account for the purposes of (b)(ii) of
20 this subsection. Beginning with the fiscal year ending June 30, 2009,
21 and biennially thereafter, the department must use ninety percent of
22 the funds appropriated from the emergency management, preparedness, and
23 assistance account for the purposes of (b)(ii) of this subsection.

24 (ii) Funds appropriated under this subsection must be used for
25 grants to regional agencies, local governments, tribal governments,
26 regional incident management teams, and private organizations to:
27 Develop and coordinate comprehensive emergency management plans; train
28 elected and appointed officials on state laws, ordinances, disaster
29 command and response structures, and the roles and responsibilities of
30 officials before, during, and after a disaster; administer periodic
31 joint emergency management training exercises; and implement projects
32 that will strengthen emergency response, mitigation, preparation, and
33 coordination.

34 (2) Projects funded under this section must include, but need not
35 be limited to, projects that will promote neighborhood level public
36 education on disaster preparedness and recovery issues, situate all
37 weather radios in public buildings, enhance coordination of public

1 sector and private sector relief efforts, and improve the training and
2 operations capabilities of agencies assigned lead or support
3 responsibilities in the state comprehensive emergency management plan.

4 (3) Grant funding may also be used as seed money to establish a
5 dedicated, full-time emergency management director in every county that
6 does not have such a director as of the effective date of this section.

7 (4) The department must establish criteria and procedures for
8 competitive allocation of these funds by rule. At a minimum, the rules
9 must:

10 (a) Establish preferential funding for projects and exercises
11 addressing needs and recommendations identified by the department in
12 the assessment conducted under section 5 of this act;

13 (b) Specify a formula that establishes a base grant allocation and
14 weighted factors for funds to be allocated over the base grant amount
15 for regional agencies, local governments, tribal governments, regional
16 incident management teams, and private organizations with existing
17 emergency management and preparedness programs that are located in a
18 part of the state where the risk of exposure to disasters is deemed by
19 the department to be particularly acute;

20 (c) Specify match requirements; and

21 (d) Include requirements that, at a minimum, a local emergency
22 management agency have: A comprehensive emergency management plan or
23 be a member of a joint local organization for emergency management; and
24 a local director who works at least forty hours a week in that
25 capacity, or have designated by ordinance or resolution an emergency
26 management coordinator who works at least fifteen hours a week in that
27 capacity.

28 (5) No more than five percent of any award made under subsection
29 (1)(b) of this section may be used for administrative expenses.

30 (6) The distribution formula provided in this section may be
31 adjusted proportionally when necessary to meet any matching
32 requirements imposed as a condition of receiving federal disaster
33 relief assistance or planning funds.

34 (7) Local governments receiving funds under this section may not
35 use the funds to supplant existing funding.

1 NEW SECTION. **Sec. 5.** Beginning in January 2008 and biennially
2 thereafter, the department must conduct in conjunction with the
3 emergency management council a strategic assessment of, and issue a
4 report on, the ability of state, local, and tribal emergency management
5 organizations to effectively provide for all phases of comprehensive
6 emergency management. The assessment must:

7 (1) Evaluate state, local, and tribal emergency management
8 capabilities and needs;

9 (2) Evaluate the ability of state, local, and tribal emergency
10 management organizations to provide emergency management mitigation,
11 preparedness, response, and recovery;

12 (3) Evaluate the effectiveness of the emergency management
13 structure at the state, local, and tribal levels;

14 (4) Provide findings and make recommendations that increase the
15 ability of state, local, and tribal emergency management organizations
16 to meet current and future risks; and

17 (5) Detail where and for what purpose funds under section 4(1)(b)
18 of this act have been distributed.

19 NEW SECTION. **Sec. 6.** The joint legislative audit and review
20 committee must study and review the performance of programs implemented
21 under this act. The committee must examine at least the following
22 factors: The number and type of joint exercises conducted under
23 section 4 of this act; the number of programs receiving grant money and
24 the status of those programs; the coordination of comprehensive
25 emergency management plans between state and local jurisdictions; the
26 number of training programs administered; the number of comprehensive
27 emergency management or safety plans created using funds distributed
28 under section 4 of this act; and the number of emergency preparedness
29 officials created and trained with funds distributed under this act.
30 The committee must provide a final report on this review by December
31 2008. Funds from the emergency management, preparedness, and
32 assistance account may be provided to the committee for the purposes of
33 conducting the study.

34 **Sec. 7.** RCW 48.18.170 and 1947 c 79 s .18.17 are each amended to
35 read as follows:

36 "Premium" as used in this code means all sums charged, received, or

1 deposited as consideration for an insurance contract or the continuance
2 thereof. "Premium" does not include the surcharge imposed under
3 section 3 of this act or the regulatory assessment imposed under RCW
4 48.02.190. Except as provided in RCW 48.02.190, any assessment, or any
5 "membership," "policy," "survey," "inspection," "service" or similar
6 fee or charge made by the insurer in consideration for an insurance
7 contract is deemed part of the premium.

8 **Sec. 8.** RCW 48.18.180 and 1994 c 203 s 2 are each amended to read
9 as follows:

10 (1) The premium stated in the policy shall be inclusive of all
11 fees, charges, premiums, or other consideration charged for the
12 insurance or for the procurement thereof.

13 (2) No insurer or its officer, employee, agent, solicitor, or other
14 representative shall charge or receive any fee, compensation, or
15 consideration for insurance which is not included in the premium
16 specified in the policy.

17 (3) Each violation of this section is a gross misdemeanor.

18 (4) This section does not apply to a fee paid to a broker by an
19 insured as provided in RCW 48.17.270.

20 (5) This section does not apply to the surcharge imposed under
21 section 3 of this act or the regulatory assessment imposed by RCW
22 48.02.190.

23 **Sec. 9.** RCW 48.02.190 and 2004 c 260 s 22 are each amended to read
24 as follows:

25 (1) As used in this section:

26 (a) "Organization" means every insurer, as defined in RCW
27 48.01.050, having a certificate of authority to do business in this
28 state and every health care service contractor or (~~(self-funded))~~)
29 self-funded multiple employer welfare arrangement registered to do
30 business in this state. "Class one" organizations shall consist of all
31 insurers as defined in RCW 48.01.050. "Class two" organizations shall
32 consist of all organizations registered under provisions of chapter
33 48.44 RCW. "Class three" organizations shall consist of self-funded
34 multiple employer welfare arrangements as defined in RCW 48.125.010.

35 (b)(i) "Receipts" means (A) net direct premiums consisting of
36 direct gross premiums, as defined in RCW 48.18.170, paid for insurance

1 written or renewed upon risks or property resident, situated, or to be
2 performed in this state, less return premiums and premiums on policies
3 not taken, dividends paid or credited to policyholders on direct
4 business, and premiums received from policies or contracts issued in
5 connection with qualified plans as defined in RCW 48.14.021, and (B)
6 prepayments to health care service contractors as set forth in RCW
7 48.44.010(3) or participant contributions to self-funded multiple
8 employer welfare arrangements as defined in RCW 48.125.010 less
9 experience rating credits, dividends, prepayments returned to
10 subscribers, and payments for contracts not taken.

11 (ii) Participant contributions, under chapter 48.125 RCW, used to
12 determine the receipts in this state under this section shall be
13 determined in the same manner as premiums taxable in this state are
14 determined under RCW 48.14.090.

15 (c) "Regulatory assessment" means the assessment imposed by
16 subsection (3) of this section.

17 (2) The annual cost of operating the office of insurance
18 commissioner shall be determined by legislative appropriation. A pro
19 rata share of the cost shall be charged to all organizations as a
20 regulatory assessment. Each class of organization shall contribute a
21 sufficient ~~((in—fees))~~ amount to the insurance commissioner's
22 regulatory account to pay the reasonable costs, including overhead, of
23 regulating that class of organization.

24 (3) ~~((Fees—charged))~~ The regulatory assessment shall be calculated
25 separately for each class of organization. The ~~((fee—charged))~~
26 regulatory assessment collected from each organization shall be that
27 portion of the cost of operating the insurance commissioner's office,
28 for that class of organization, for the ensuing fiscal year that is
29 represented by the organization's portion of the receipts collected or
30 received by all organizations within that class on business in this
31 state during the previous calendar year ~~((:—PROVIDED, That the fee))~~.
32 However, the regulatory assessment shall not exceed one-eighth of one
33 percent of receipts ~~((:—PROVIDED FURTHER, That))~~. The minimum ~~((fee))~~
34 regulatory assessment shall be one thousand dollars.

35 (4) The commissioner shall annually, on or before June 1st,
36 calculate and bill each organization for the amount of ~~((its fee. Fees~~
37 ~~shall be))~~ the regulatory assessment. The regulatory assessment is due
38 and payable ~~((no later than))~~ by June 15th of each year ~~((:—PROVIDED,~~

1 ~~That~~). However, if the necessary financial records are not available
2 or if the amount of the legislative appropriation is not determined in
3 time to carry out such calculations and bill such ~~((fees))~~ regulatory
4 assessment within the time specified, the commissioner may use the
5 ~~((fee))~~ regulatory assessment factors for the prior year as the basis
6 for the ~~((fees))~~ regulatory assessment and, if necessary, the
7 commissioner may impose supplemental ~~((fees))~~ regulatory assessments to
8 fully and properly charge the organizations. The penalties for failure
9 to pay ~~((fees))~~ the regulatory assessment when due shall be the same as
10 the penalties for failure to pay taxes pursuant to RCW 48.14.060. The
11 ~~((fees))~~ regulatory assessment required by this section ~~((are))~~ is in
12 addition to all other taxes and fees now imposed or that may be
13 subsequently imposed.

14 (5) All moneys collected shall be deposited in the insurance
15 commissioner's regulatory account in the state treasury which is hereby
16 created.

17 (6) Unexpended funds in the insurance commissioner's regulatory
18 account at the close of a fiscal year shall be carried forward in the
19 insurance commissioner's regulatory account to the succeeding fiscal
20 year and shall be used to reduce future ~~((fees))~~ regulatory
21 assessments. During the 2003-2005 fiscal biennium, the legislature may
22 transfer from the insurance commissioner's regulatory account to the
23 state general fund such amounts as reflect excess fund balance in the
24 account.

25 (7) Beginning with invoices issued on or after the effective date
26 of this section, each insurer shall collect from each policyholder an
27 amount equal to the premium paid by that policyholder multiplied by the
28 rate then in effect for the regulatory assessment. The regulatory
29 assessment shall be separately stated from the premium in any policy
30 invoice or bill issued by the insurer. The amount collected from
31 policyholders pursuant to this section shall not be considered premium
32 as defined in RCW 48.18.170 for any purpose and is not subject to
33 premium taxes; however, nonpayment of the amount by the insured may be
34 a valid reason for cancellation of the policy. The amount imposed on
35 policyholders under this section is not subject to retaliatory tax
36 provisions.

1 NEW SECTION. **Sec. 10.** Sections 2 through 5 of this act are each
2 added to chapter 38.52 RCW.

3 NEW SECTION. **Sec. 11.** Sections 4 through 6 of this act take
4 effect January 1, 2007."

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By Senator Benton

PULLED 02/11/2006

5 On page 1, line 2 of the title, after "account;" strike the
6 remainder of the title and insert "amending RCW 48.18.170, 48.18.180,
7 and 48.02.190; adding new sections to chapter 38.52 RCW; creating new
8 sections; and providing an effective date."

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